

REMARKS

In response to the Office Action mailed July 1, 2004, Applicants hereby confirm their provisional election, with traverse, of Group VII (Claims 20-23 and 26) made in the April 5, 2004 Response to Restriction Requirement and Amendment, and noted by the Examiner at page 2, line 3 of the July 1, 2004 Office Action.

The Examiner states that the current restriction requirement is "made in view of applicant's addition of new claims 43-53, which add new inventions within that which was elected." The Examiner further states:

The addition of the new method claims 43-53 now creates the need for further restriction within the elected group VII. The instant invention is linked to other inventions through claim 16. Applicant must elect a specific target as recited in claims 44 and 49.

July 1, 2004 Office Action at page 2, lines 5-9. The Examiner further states:

Applicant must elect a specific target as recited in claims 44 and 49. . . . The different connexin targets represent different inventions since the search of antisense inhibition of one connexin would not necessarily locate art against the inhibition of another. Furthermore the use of an antisense to inhibit one specific connexin nucleic acid would not necessarily inhibit another connexin.

July 1, 2004 Office Action at page 2, lines 8-14.

Applicants provisionally elect the species, antisense polynucleotide to connexin 43, with traverse. Additionally, if required, Applicants provisionally elect, with traverse, the nucleotide sequence, GTA ATT GCG GCA AGA AGA ATT GTT TCT GTC.

Applicants traverse the requirement that one antisense polynucleotide be elected. As clearly stated in MPEP § 803.04, "the Commissioner has decided *sua sponte* to waive the requirements of 37 CFR 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application." Section

803.04 states, "It has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction" (emphasis added). In the present application, there are only six nucleotide sequences listed and the nucleotide sequences are related in the sense that they are all antisense polynucleotides to connexin proteins. Thus, the present case does not trigger the exceptional, complex case provisions of section 803.04 which state that, "for example a protein amino acid sequence reciting three dimensional folds, may necessitate that the reasonable number of sequences to be selected be less than ten."

Additionally, applicants point out that no lack of unity of invention objection was made in the corresponding PCT application, PCT/GB00/00238, filed January 27, 2000. Thus, the European Patent Office did not consider that the present application contains more than one invention. Applicants request that the requirement to select one nucleotide sequence be reconsidered and withdrawn.

Enclosed is a petition for a one month extension of time and a check for \$110. Applicant believes no additional fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02246US0 from which the undersigned is authorized to draw.

Dated: August 31, 2004

Respectfully submitted,

By 

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